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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,746	03/07/2002	Robert D. Feldman	FELDMAN 11-1-1-2-8	2870

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EXAMINER

WANG, QUAN ZHEN

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/092,746

Applicant(s)

FELDMAN ET AL.

Examiner

Quan-Zhen Wang

Art Unit

2613

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,3-10 and 12-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

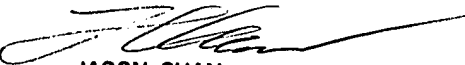
Continuation of 3. NOTE:

The amended claim 10 further includes newly added limitation of "restoring the power level of the optical signal in response to the presence of the counter-propagating supervisory signal". The newly added limitation changes the scope of the claim, therefore, requires new search and consideration.

The amended claim 16 further includes newly added limitation of "wherein responding to the absence of the counter-propagating supervisory signal obviates a need for the downstream element to notify the network element of a fault in the optical fiber path". The newly added limitation changes the scope of the claim and requires further search and consideration.

Claim 20 is labeled "previously presented" while containing newly added limitation of "means for restoring the power level of the optical signal output in response to the presence of the counter-propagating supervisory signal". It is not clear whether Applicant intends to maintain the previously presented form of the claim or amend the claim to include the newly added limitation.

Continuation of 11. does NOT place the application in condition for allowance because: Regarding claim 1, Applicant argues that prior references do not teach "restoring the power level of the optical signal in response to the presence of the counter-propagating supervisory signal". However, as it was pointed out in the Office Action, Maddocks clearly and explicitly discloses in column 3, lines 44-58 that "In an optical communication system which uses a single optical fiber to carry bidirectional traffic, the above system requires modification, since a break in or damage to the fiber will result in some reflection of the transmitted signal back into a receive circuit. Thus, the receive circuit would continue to receive a signal even in the event of a break. This difficulty is overcome by transmitting over the supervisory channel an identifier signal which uniquely identifies a particular transmitter. In the event of damage to or a break in the fiber, receipt of an identifier signal which differs from that expected under normal operation will cause the laser amplifiers to be shut down. As before, the supervisory channel generates pulsed signals which are used to detect repair of the fiber, and to enable the high power optical amplifiers to be reset and enabled." It is clear that, in order to distinguish between the counter-propagating supervisory signal and reflected co-propagating supervisory signal caused by a fiber break, Maddocks further includes an identification signal in the supervisory signals. In other words, Maddocks includes additional features to ensure the detection of loss/presence of counter-propagating supervisory signal. Therefore, Maddocks clearly meets the claimed limitations.


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